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 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name Rodriguez Jornay Rechurd
 (Last) (First) (Initial)

Prisoner Number P-16162

Institutional Address California Mens Colony, P.O. Box 8101
San Luis Obispo, California 93409-8101

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CW

Jornay Rechurd Rodriguez
 (Enter the full name of plaintiff in this action.)

CV

08

4036

vs.

John Marshall, Warden

Case No. BA131909
 (To be provided by the clerk of court)

**PETITION FOR A WRIT
 OF HABEAS CORPUS**

(PR)

E-filing

Formal questions of
 Law as to State conviction
 And Sentence.

(Enter the full name of respondent(s) or jailer in this action)

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

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IN PRO SE
 NO ENVELOPE ??

AUG 22 2008

PET. FOR WRIT OF HAB. CORPUS

- 1 -

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

008-4036CW

QUESTION(S) PRESENTED

1. Whether the prosecutors violated the defendant's 14th Amendment Rights when one prosecutor sentenced defendant to one count, by plea, that was dismissed prior to sentencing in an Amended Information filed by another prosecutor.
2. Whether the court and prosecution violated the defendant's 5th, 6th and 14th Amendment Rights to be notified of what charges to be faced when he was sentenced to a charge his name was deleted from even though he pleaded to the deleted charge prior.
3. Whether the court and prosecution violated the defendant's 5th, 6th and 14th Amendment Rights to trial when an Amended Information deleted defendant's name from the charge he pleaded to, after he waived his rights, without an opportunity to plead anew.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution of the United States

Amendment V

Criminal Proceedings and Condemnation of property

[Section 1.] No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the Land ...; nor shall any person be subject ... to be twice put in jeopardy of life or limb; nor be compelled ... to be a witness against himself, nor be deprived of Life, Liberty, or property, without due process of Law ... Ibid.

Amendment VI

Mode of Trial in Criminal Proceedings

[Section 1.] In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed ... and be informed of the nature and cause of the accusation ... and to have the assistance of counsel for his defense. Ibid

Amendment XIV

Citizenship, Representation, and Payment of Public Debt

Citizenship

[Section 1.] All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of Life, Liberty, or property, without due process of Law; nor deny to any person within its jurisdiction the equal protection of the Laws.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

California Constitution Article I

Felony defendants before magistrate - Prosecutions
[Section 14.] Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information.

A person charged with a Felony by complaint subscribed under penalty of perjury and on file in a court... shall be taken without unnecessary delay before a magistrate of the court. The magistrate shall immediately give the defendant a copy of the complaint, inform the defendant of the defendant's right to counsel, allow defendant a reasonable time to send for counsel, and on the defendant's request read the complaint to the defendant... Ibid

Criminal Prosecutions - Right of defendant - Due Process of Law - Jeopardy - Depositions - Assistance of Counsel

[Section 15.] The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses... to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant... Ibid

Persons may not be twice put in jeopardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of life, liberty, or property without due process of law.

1 Constitutional Rights - Rights Reserved
 2 [Section 24.] Rights guaranteed by this Constitution
 3 are not dependant on those guaranteed by the United States
 4 Constitution.

5 In criminal cases the Rights of a defendant to equal
 6 protection of the Laws, to due process of Law, to the
 7 Assistance of counsel, to be personally present with counsel,
 8 to a speedy and public trial, to compel the attendance of
 9 witnesses, to confront the witnesses against you, to be free from
 10 unreasonable search and seizures, to privacy, to not be
 11 compelled to be a witness against yourself, to be not placed
 12 twice in jeopardy for the same offence, and to not suffer the
 13 imposition of cruel and unusual punishment, shall be construed
 14 by the courts of the State in a manner consistent with the
 15 Constitution of the United States. This constitution shall not
 16 be construed by the courts to afford greater rights to
 17 criminal defendants than those afforded by the Constitution
 18 of the United States, nor shall it be construed to afford
 19 greater rights to minors... Ibid
 20

21 California Penal Code

22 [Section 1009.] Amendment of accusatory instrument
 23

24 An indictment, accusation or information may be
 25 amended by the district attorney, and an amended complaint
 26 may be filed by the prosecuting attorney... without leave
 27 of court at any time before the defendant pleads... The
 28 court in which an action is pending may order or permit

1 an Amendment of an indictment, accusation or information, or
 2 the filing of an Amended Complaint, for any defect or
 3 insufficiency, at any stage of the proceedings... The
 4 defendant shall be Required to plead to such amendment or
 5 amended pleadings forthwith, or, at the time fixed for
 6 pleading, if he has not yet pleaded and the trial or other
 7 proceeding shall continue as if the pleading had been
 8 originally filed as amended, unless the substantial rights of
 9 the defendant would be prejudiced thereby, in which event
 10 a reasonable postponement, not longer than the ends of
 11 justice require, may be granted... Ibid

14 [Section 1016.] Permissible Pleas; Effect of Pleas of Nolo
 15 Contendere; Presumption of Sanity

16 There are six kinds of pleas to an indictment
 17 or an information, or to a complaint charging an offense
 18 triable in court:

- 19 1. Guilty
- 20 2. Not Guilty
- 21 3. Nolo Contendere
- 22 4. A former judgment of conviction or acquittal
- 23 5. Once in Jeopardy, and
- 24 6. Not Guilty by Reason of Insanity

25 A defendant who does not plead guilty may enter
 26 one or more of the other pleas... Ibid.

☒ A conviction☐ Parole☒ A sentence☐ Credits☐ Jail or prison conditions☐ Prison discipline☒ Other (specify): Questions on Due Process as to Amendments

1. Your name: JORJAY RECHURNO RODRIGUEZ
2. Where are you incarcerated? CALIFORNIA MENS COLONY
3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

Circumstantial Kidnap Murder

- b. Penal or other code sections: P.C. 187(A), 190.1(A), 190.1(A)(17), 209(A)

- c. Name and location of sentencing or committing court: Los Angeles Criminal Court Building
111 South Spring Street, Los Angeles, California 90012

- d. Case number: BA131909

- e. Date convicted or committed: December 4th, 1997

- f. Date sentenced: September 15th, 1998

- g. Length of sentence: 25 years to Life

- h. When do you expect to be released? 2017 Mepd

- i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:

Albert Deblanc

4. What was the LAST plea you entered? (check one)

☐ Not guilty ☐ Guilty ☒ Nolo Contendere ☐ Other: _____

5. If you pleaded not guilty, what kind of trial did you have?

☐ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

Petitioner WAS denied the right to plead Anew to an Amended Information he was not to be sentenced to a charge his name is deleted from.

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

PROSECUTOR, ELEANOR J. HUNTER, AMENDED ANOTHER PROSECUTOR'S, ANNIE INGALLS, INFORMATION, before sentencing, deleting petitioner's name from the information as to his conviction charge. (Exhibit A AND B) However, Petitioner WAS sentenced to charge deleted by court anyway.

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

Santobello v. New York (1971) 404 U.S. 257
Penal Code section 1009

Petitioner has a right to seek relief from a plea if his name is deleted from his information even under a plea.

a. Supporting facts:

Petitioner's name is deleted from the information prior to sentencing do to an amended information. However, petitioner was sentenced to deleted count. (Exhibit C)

b. Supporting cases, rules, or other authority:

MUNS v. SUPERIOR COURT (1955) 137 C.A.2d 728
U.S. v. Pacheco (9th Cir 1990) 912 F.2d 297
Pee. v. Leech (1965) 42 C.R. 745, 237 C.A.2d 397

1 Ground 3:

2 Petitioner has a right to jury trial, even though
3 trial was waived on plea, once an Amended
4 Information arises.
5

6 Supporting facts:

7 Petitioner plead *nolo contendere* waiving his
8 right to jury trial prior to the Amendment.
9 However, petitioner never had an opportunity to
10 plead anew to the Amendment nor could he invoke
11 his right to trial.
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23 Supporting Cases:

24 *Muns v. Superior Court* (1955) 137 C.A.2d 728

25 *Peo. v. Hopkins* (1974) 39 C.A. 3d 107
26
27
28

8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☒ No. If yes, give the following information.
- a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"): _____
- b. Result: _____ c. Date of decision: _____
- d. Case number or citation of opinion, if known: _____
- e. Issues raised: (1) _____
(2) _____
(3) _____
- f. Were you represented by counsel on appeal? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known: _____
9. Did you seek review in the California Supreme Court? ☐ Yes. ☒ No. If yes, give the following information:
- a. Result: _____ b. Date of decision: _____
- c. Case number or citation of opinion, if known: _____
- d. Issues raised: (1) _____
(2) _____
(3) _____
10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

N/A

11. Administrative Review:

- a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

N/A

- b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

13. a. (1) Name of court: California Superior Court
(2) Nature of proceeding (for example, "habeas corpus petition"): Certificate of Probable Cause
(3) Issues raised: (a) Due Process issues.
(b) _____
(4) Result (Attach order or explain why unavailable): Denied
(5) Date of decision: February 17th, 2005 (Appendix A)
- b. (1) Name of court: California Superior Court
(2) Nature of proceeding: Petition for Modification of Sentence
(3) Issues raised: (a) Due Process issues.
(b) _____
(4) Result (Attach order or explain why unavailable): Denied
(5) Date of decision: December 1st, 2006 (Appendix B)

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

No Hearings held.

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)
Petitioner is raising questions of law that was previously unavailable to petitioner due to absence of remedy.

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☒ Yes. ☐ No. If yes, explain:

U.S. Supreme Court on Writ of Certiorari

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:
Questions of law that need to be answered with clarity in this court because lower courts wouldn't answer.

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: August 13th, 2008

[Signature]
(SIGNATURE OF PETITIONER)

- 1 C.a.1. California Court of Appeals
- 2 2. Petition for Writ of Error Coram Vobis
- 3 3.(a), Due Process issues.
- 4
- 5 4. Denied Summarily
- 6 5. November 8th 2007 (Appendix C)
- 7 D. a. 1. California Supreme Court
- 8 2. Petition for writ of Habeas Corpus
- 9 3.(a) Due Process issues
- 10 4. Denied
- 11 5. July 14th, 2008
- 12
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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 02/17/05

CASE NO. BA131909

THE PEOPLE OF THE STATE OF CALIFORNIA

VS.

DEFENDANT 03: JORNAY RECHURND RODRIGUEZ

COUNT 01: 187(A) PC FEL - MURDER.

ON 02/17/05 AT 900 AM IN CENTRAL DISTRICT DEPT 101

CASE CALLED FOR MOTION

PARTIES: WILLIAM POUNDERS (JUDGE) ALBERTA P. JORDAN (CLERK)
NONE (REP) NONE (DDA)

PURSUANT TO DEFENDANT'S WRITTEN REQUEST, AND NOT REPRESENTED BY COUNSEL

THE COURT HAS RECEIVED AND REVIEWED THE DEFENDANT'S APPLICATION
FOR A CERTIFICATE OF PROBABLE CAUSE. THE COURT DENIES THE APPLI-
CATION.

A COPY OF THIS MINUTE ORDER AND THE COURT'S ORDER ARE MAILED VIA
U. S. MAIL TO:

JORNAY RODRIGUEZ P-16162
A3-126

CALIFORNIA STATE PRISON/LOS ANGELES COUNTY
44750 60TH STREET WEST
LANCASTER, CA 93536

NEXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED

ORIGINAL FILED

FEB 17 2005

**LOS ANGELES
SUPERIOR COURT**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

vs.)

.JORNAY RODRIGUEZ,)

Defendant.)

No. BA 131909

**ORDER DENYING
CERTIFICATE OF
PROBABLE CAUSE**

Defendant's Application for a Certificate of Probable Cause filed February 16,

2005, is DENIED for failure to file a timely Notice of Appeal. (*In re Chavez* (2003) 30

Cal.4th 643, 650) Defendant was sentenced on September 15, 1998.

Dated: February 17, 2005

WILLIAM R. POUNDERS

JUDGE WILLIAM R. POUNDERS

Appendix ~~B~~

~~EXHIBIT~~ A

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 12/13/06

CASE NO. BA131909

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 03: JORNAY RECHURND RODRIGUEZ

COUNT 01: 187(A) PC FEL - MURDER.

ON 12/01/06 AT 900 AM IN CENTRAL DISTRICT DEPT 101

CASE CALLED FOR RULING ON MOTION

PARTIES: WILLIAM POUNDERS (JUDGE) ALBERTA P. JORDAN (CLERK)
NONE (REP) NONE (DDA)

PURSUANT TO DEFENDANT'S WRITTEN REQUEST, AND NOT REPRESENTED BY COUNSEL

*****NO COURT FILE*****

THE DEFENDANT'S PETITION FOR MODIFICATION OF SENTENCE IS READ,
CONSIDERED AND DENIED.

A COPY OF THIS MINUTE ORDER AND THE COURT'S EXPLICIT ORDER ARE
MAILED VIA U.S. MAIL TO THE FOLLOWING:

JORNAY RECHURND RODRIGUEZ

CDC # P-16162
CALIFORNIA MENS COLONY
POST OFFICE BOX 8101
SAN LUIS OBISPO, CA 93409-8101

NEXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

DEC 01 2006

John A. Clarke, Executive Officer/Clerk

By , Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

vs.)

JORNAY RECHURND RODRIGUEZ)

Defendant.)
_____)

No. BA 131909

**ORDER DENYING PETITION
FOR MODIFICATION OF
SENTENCE**

(Penal Code section 1170)

DEFENDANT RODRIGUEZ Petition for Modification of Sentence

pursuant to Penal Code section 1170 is denied for the following reasons:

1. The Court lacks jurisdiction to modify the sentence more than 120 days after the date of commitment. (Pen. Code § 1170(d))
2. Deletion of Defendant's name from Count 1 in the Amended Information after his plea does not eliminate the charge to which he pled. (Petr. Exhs. A & B)

Dated: November 28, 2006

WILLIAM R. POUNDERS

JUDGE WILLIAM R. POUNDERS

CJC Department 101

(213) 974-5777

Appendix ^C
~~B~~

EXHIBIT B

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re JORNAY RODRIGUEZ,

On Habeas Corpus.

B201404

(Super. Ct. No. BA131909)

ORDER

THE COURT:

The court has read and considered the petition for writ of error coram vobis filed August 26, 2007. The petition is summarily denied.

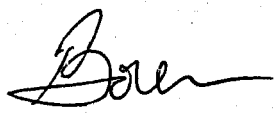
COURT OF APPEAL - SECOND DIST.

FILED

NOV 8 - 2007

JOSEPH A. LANE Clerk

J. GUZMAN Deputy Clerk



BOREN, P. J.



ASHMANN-GERST, J.



CHAVEZ, J.

Appendix ^D
~~D~~

~~EXHIBIT A~~

S160727

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re JORNAY R. RODRIGUEZ on Habeas Corpus

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Clark* (1993) 5 Cal.4th 750.)

SUPREME COURT
FILED

JUL 16 2008

Frederick K. Ohlrich Clerk

Deputy

GEORGE

Chief Justice

Mr. Jorway Rodriguez P16162
CMC - East 3297X
P.O. Box 8101
San Luis Obispo, CA
93409

In the California Supreme Court

Jorway Reckord Rodriguez
Plaintiff

v.

John Marshall, Warden
Defendant

Case no. BA131909

Motion in Support of Writ
of Habeas Corpus.

This motion is in support of the Habeas Corpus which is filed herewith. This motion substantiate the claims with clarity to the Law of the Land in the state of California and corresponding constitutional rights both from the U.S. and State. This petition should be heard to clarify the questions presented and to further the Laws of Justice.

Petitioners need this court to answer these questions not for himself but for the clarification and clarity of the issues state-wide.

Statement of the Case

This review is sought do to both Courts of first instance and court of Appeals, Appellate Division, passed on the Questions sought to be reviewed here.

Petitioner filed a Certificate of Probable Cause in the California Superior Court on February 16th 2005 Raising the issues being raised here. On February 17th 2005 the Certificate was denied stating, "Defendant's Application for Certificate of Probable Cause filed February 16th 2005, is denied for failure to file a timely Notice of Appeal. (In re Chavez (2003) 30 Cal.4th 643, 650) Defendant was sentenced on September 15th 1998." (Appendix A).

In 2006 petitioner filed a petition for modification of sentence in the California Superior Court. On December 1st 2006 it was denied stating, "(1) the court lacks jurisdiction to modify the sentence more than 120 days after the date of commitment (Penal Code 1170(d)), and (2) Deletion of defendant's name from count 1 in the Amended Information after his plea does not eliminate the charge to which he pled. (Petitioner's Exhibits A and B). (Appendix B).

Petitioner filed a petition for writ of Error Coram Vobis in the California Court of Appeal on August 26th 2007. On November 8th 2007 it was summarily denied. (Appendix C). This court has jurisdiction to answer these questions without further delay.

1 In this case the petitioners pose a series of
2 questions pertaining to the Due Process Rights of the
3 defendant.

4 (1) First question deals with one prosecutor
5 who sentenced defendant to one count while another
6 Amended the Information prior to sentence deleting
7 defendant's name to the charge to be sentenced to.

8 Now, if a defendant is sentenced to a charge
9 that his name was deleted from it would be illegal
10 according to Peo. v. Leech (1965) 42 C.R. 745, 237 C.A.2d
11 397 as well coinciding with U.S. v. Pacheco (9th Cir 1990)
12 912 F.2d 297. Even with the assurance of the United
13 States Constitutional Amendment 14 with California
14 Constitutional Article 1 section 14 stating a defendant
15 have the right to be notified of the charges against him in
16 order to plead and to carry out Due Process Rights on
17 those charges. If I'm sentenced without a charge
18 existing it is illegal according to these two cases.

19 The lower courts continued to deny petitioners'
20 rights in conflict of clearly established rulings. In
21 particular Santabello v. New York (1970) 404 U.S. 257
22 is a prime example for this question of two prosecutors
23 who did not confere with each other and sentenced the
24 defendant anyway to a term greater than what he pled
25 to initially.

26 The U.S. court ruled in favor of the defendant's
27
28

1 Resentencing.

2 Petitioner is being denied because the state courts
3 are agreeing that the deletion does not matter when it does.
4 According to Penal Code 1009, come in to correct defects
5 that were sufficient enough to warrant an Amendment to
6 The Information from evidence not shown to warrant the
7 deletion. If this fact is true petitioner should be able to
8 plead anew to The Amended Information and not be denied
9 Substantial Rights under prejudicial defects.
10

11
12 (2) Second question deals with the notice of
13 charges to be faced when an Amendment to the Information
14 is filed deleting the charge plead to.

15 Notification of the charges against a defendant,
16 whether adding or deleting charges, is critical to a defendant's
17 case due to the fact of knowing what is at stake and
18 what to decide as to pleading guilty or not guilty. (See
19 Penal Code 1016 and 1009) The U.S. Constitution Amendment
20 VI and California Constitution Article I section 14
21 states the defendant shall enjoy the right to be informed
22 of the nature and cause of the accusations and read the
23 Complaint and have a copy. Now, when an Amended
24 Information accrues and a defendant is unaware that
25 the charge plead to is no longer valid his aspect of
26 Rights is taken away and he is left with no other
27 recourse but to stay the course of the initial charges
28

1 until notification of change is read. But if no notification
 2 is given the defendant is left in the blind only to be
 3 sentenced illegally and no one would ever know. However,
 4 when this occurs the defendant would be prejudiced to the
 5 point that his rights were taken unaware, his innocence
 6 destroyed, and his sentence would be illegal according to
 7 U.S. v. Miller (1983) 715 F.2d 1360; Peo. v. Rose (1972)
 8 104 C.R. 702, 28 CA3d 415; Peo. v. Superior Court (Alvarado)
 9 255 CR 46, 207 CA 3d 464; and Peo. v. Benton (1979) 100
 10 CA3d 92. These rulings were all in favor of the defendant
 11 for various charges that were illegal and sentences that were
 12 prohibited without charges.

13 Even though there is ample information of clearly
 14 established rulings in favor of a defendant being resentenced
 15 and exonerated on deleted charges the lower courts continued
 16 to deny petitioner in conflict of these rulings and this U.S. court
 17 rulings for relief.
 18

19 (3) Third and final question deals with the right to
 20 trial. If a plea of guilty waiver has been taken and an
 21 Amendment to the Information occurs deleting the charge
 22 plead to prior to sentencing does the defendant retain his
 23 rights after? According to Muns v. Superior Court (1955)
 24 137 CA2d 728 and Peo. v. Hopkins (1974) 39 CA3d 107 you
 25 do. The defendant retains his rights to jury trial due to
 26 his charge being void and the plea has no validity.
 27

28 However, the lower courts conflict with this do

1 to its decision to deny petitioner of his Right to be Free
 2 From deliberate injustice and an equal opportunity to be
 3 Notified and tried on sufficient charges. It is well established
 4 that the trial court pronounced a sentence which is
 5 unauthorized by law that must be vacated due to errors
 6 occurring after the entry of the plea causing "Future
 7 Sentencing Error" that's beyond the scope of the plea waiver
 8 according to Peo. v. Sherrick (1993) 19 CA 4th 657, 24
 9 CR 2d 25; Peo. v. Vargas 13 CA 4th 1662; Also see
 10 Beady v. U.S. (1970) 397 U.S. 742, 25 LEd 2d 747, 90 S.Ct.
 11 1468.

12 The United States Constitution Amendments 14 and 6
 13 the California Constitution Article I sections 15 and 24
 14 guarantees the Right to trial and due process. A proper
 15 withdrawal of the plea and sentence is necessary whenever
 16 brought to the attention of the reviewing court according to
 17 Peo. v. Rowland (1988) 206 CA3d 119. Petitioner has
 18 brought these issues up to the courts of first interest and
 19 have been denied constantly in conflict of their rulings
 20 and this courts rulings. With ample rulings in favor of
 21 the defendants the lower courts exceeded their conflict
 22 and began an open denial festival for petitioner's issues
 23 requesting relief.

24 It is necessary to interview and review these
 25 questions of law so that others of like situations do not
 26 become victims of Due Process violations.
 27
 28

Conclusion:

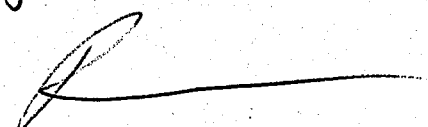
The petitioner request an order to show cause if the facts are disputed and if there is no good reason to deny the petition please grant what ever is favorable to the petitioner.

Declaration:

Petitioner declares under penalty of perjury that the foregoing is true and correct.

Respectfully Submitted,

Dated: August 13th, 2008


Jorway Recheval Rodriguez

Proof of Service

I, JoNay Rechuend Rodriguez, do swear and declare that on this date August 13th, 2008, as required by law I have served the enclosed Petition for Writ of Habeas Corpus on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with First-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Honorable Judge Shelton E. Henderson
(Senior District Judge, Division 12, 18th Floor
U.S. Courthouse
450 Golden Gate Ave.
San Francisco, California 94102-3483

I declare under penalty of perjury that the foregoing is the truth and is correct.

Executed: August 13th, 2008



JoNay Rechuend Rodriguez

EXHIBIT [A]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

v.

01 ANDREW LANCASTER (6/12/1972),
02 SHAWN ALEXANDER (6/14/1976), and
03 JORNAY RECHURND RODRIGUEZ (3/15/1976)
Defendant(s).

CASE NO. BA131909

Arraignment: 08/06/96
Dept: 100

INFORMATION FLORES

superceded
7/23/98

**INFORMATION
SUMMARY**

Ct. No.	Charge	Charge Range	Defendant	Special Allegation	Alleg. Effect
1	PC 187(A)	Check Code	LANCASTER, ANDREW ALEXANDER, SHAWN RODRIGUEZ, JORNAY	PC 190.2(A)(17) PC 190.2(A)(1) PC 190.2(A)(17) PC 190.2(A)(1) PC 190.2(A)(17) PC 190.2(A)(1)	LWOP/Death LWOP/Death LWOP/Death LWOP/Death LWOP/Death LWOP/Death
2	PC 209(A)	Life	LANCASTER, ANDREW ALEXANDER, SHAWN RODRIGUEZ, JORNAY		

The District Attorney of the County of Los Angeles, by this Information alleges that:

COUNT 1

On or about April 23, 1996, in the County of Los Angeles, the crime of MURDER, in violation of PENAL CODE SECTION 187(A), a Felony, was committed by ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ, who did willfully, unlawfully, and with malice aforethought murder MICHAEL TAYLOR, a human being.

"NOTICE: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

It is further alleged that the murder of MICHAEL TAYLOR was committed by defendant(s), ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ while the said defendant(s) was/were engaged in the commission of the crime of Kidnapping, and/or Kidnapping for

EXHIBIT

Ransom, within the meaning of Penal Code section 190.2(a)(17).

It is further alleged that the murder of MICHAEL TAYLOR was intentional and was carried out by the defendant(s), ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ for financial gain, within the meaning of Penal Code Section 190.2(a)(1).

* * * * *

COUNT 2

On or about April 23, 1996, in the County of Los Angeles, the crime of KIDNAPPING FOR RANSOM, in violation of PENAL CODE SECTION 209(A), a Felony, was committed by ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ, who did willfully and unlawfully seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, and carry away MICHAEL TAYLOR with the intent to hold and detain, and who did hold and detain, the said MICHAEL TAYLOR for ransom, reward, extortion, and to exact from relatives and friends of said MICHAEL TAYLOR money. "NOTICE: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

* * * * *

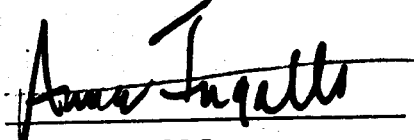
EXHIBIT

00194

THIS INFORMATION CONSISTS OF 2 COUNT(S).

GIL GARCETTI
DISTRICT ATTORNEY
County of Los Angeles,
State of California

BY:


ANNE INGALLS
DEPUTY DISTRICT ATTORNEY

Filed in Superior Court,
County of Los Angeles

/YTD

DATED: NO Date

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

EXHIBIT

EXHIBIT B

000195

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

v.

01 ANDREW LANCASTER (6/12/1972) (Bk# 4820146),
02 SHAWN ALEXANDER (6/14/1976) (Bk# 4821657),
and
03 JORNAY RECHURND RODRIGUEZ (3/15/1976) (Bk# 4822247)
Defendant(s).

CASE NO. BA131909

**AMENDED
INFORMATION**

FILED
LOS ANGELES SUPERIOR COURT

JUL 23 1998

JOHN A. CLARKE, CLERK
H. Ramirez
BY M. RAMIREZ, DEPUTY

**AMENDED
INFORMATION
SUMMARY**

Ct. No.	Charge	Charge Range Check Code	Defendant	Special Allegation	Alleg. Effect
1	PC 187(a)		LANCASTER, ANDREW	PC 12022.5(a)(1) PC 190.2(a)(17) PC 190.2(a)(1)	+3-4-10 LWOP/Death LWOP/Death
			ALEXANDER, SHAWN	PC 190.2(a)(17) PC 190.2(a)(1)	LWOP/Death LWOP/Death
2	PC 209(a)	LWOP	LANCASTER, ANDREW ALEXANDER, SHAWN RODRIGUEZ, JORNAY	PC 12022.5(a)(1)	+3-4-10

The District Attorney of the County of Los Angeles, by this Amended Information alleges that:

COUNT 1

On or about April 23, 1996, in the County of Los Angeles, the crime of MURDER, in violation of PENAL CODE SECTION 187(a), a Felony, was committed by ANDREW LANCASTER and SHAWN ALEXANDER, who did unlawfully, and with malice aforethought murder MICHAEL TAYLOR, a human being.

"Notice: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

It is further alleged that the murder of MICHAEL TAYLOR was committed by defendant(s), SHAWN ALEXANDER while the said defendant(s) was/were engaged in the commission of the crime of

EXHIBIT

KIDNAPPING, within the meaning of Penal Code section 190.2(a)(17).

It is further alleged that the murder of MICHAEL TAYLOR was intentional and was carried out by the defendant(s), SHAWN ALEXANDER for financial gain, within the meaning of Penal Code Section 190.2(a)(1).

It is further alleged that the murder of MICHAEL TAYLOR was committed by defendant(s), ANDREW LANCASTER while the said defendant(s) was/were engaged in the commission of the crime of Kidnapping, within the meaning of Penal Code section 190.2(a)(17).

It is further alleged that the murder of MICHAEL TAYLOR was intentional and was carried out by the defendant(s), ANDREW LANCASTER for financial gain, within the meaning of Penal Code Section 190.2(a)(1).

* * * * *

COUNT 2

On or about April 23, 1996, in the County of Los Angeles, the crime of KIDNAPPING FOR RANSOM, in violation of PENAL CODE SECTION 209(a), a Felony, was committed by ANDREW LANCASTER, SHAWN ALEXANDER, and JORNAY RECHURND RODRIGUEZ, who did unlawfully seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, and carry away MICHAEL TAYLOR with the intent to hold and detain, and who did hold and detain, the said MICHAEL TAYLOR for ransom, reward, extortion, and to exact from relatives and friends of said MICHAEL TAYLOR money and other valuable things.

"Notice: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

It is further alleged that the said victim, MICHAEL TAYLOR, while being subjected to said kidnapping, suffered bodily harm and death, and was intentionally confined in a manner which exposed him/her to a substantial likelihood of death, within the meaning of Penal Code Section 209(a).

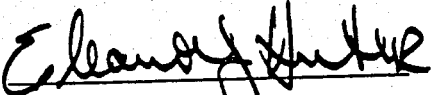
EXHIBIT

It is further alleged as to count(s) 1 and 2 that in the commission and attempted commission of the above offense, the said defendant(s), ANDREW LANCASTER, personally used a firearm(s), to wit: HANDGUN, within the meaning of Penal Code sections 1203.06(a)(1) and 12022.5(a)(1) also causing the above offense to become a serious felony pursuant to Penal Code section 1192.7(c)(8) and a violent felony within the meaning of Penal Code section 667.5(c)(8).

THIS AMENDED INFORMATION CONSISTS OF 2 COUNT(S).

GIL GARCETTI
DISTRICT ATTORNEY
County of Los Angeles,
State of California

BY:


ELEANOR J. HUNTER
DEPUTY DISTRICT ATTORNEY

Filed in Superior Court,
County of Los Angeles

/CA

DATED: _____

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

EXHIBIT C

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 12/04/97

CASE NO. BA131909

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 03: JORNAY RECHURND RODRIGUEZ

COUNT 01: 187(A) PC FEL - MURDER.

COUNT 02: 209(A) PC FEL - KIDNAPPING FOR RANSOM.

ON 12/04/97 AT 830 AM IN L.A. SUPERIOR - CENTRAL DEPT 106

CASE CALLED FOR JURY TRIAL

PARTIES: ANDREW KAUFFMAN (JUDGE) MARIANNE CALVIN (CLERK)
CARMEN YOUNG (REP) ANNE INGALLS (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY A. DEBLANC JR. BAR PANEL ATTORNEY

DEFENDANT ADVISED OF AND PERSONALLY AND EXPLICITLY WAIVES THE FOLLOWING RIGHTS:

TRIAL BY COURT AND TRIAL BY JURY

CONFRONTATION AND CROSS-EXAMINATION OF WITNESSES;

SUBPOENA OF WITNESSES INTO COURT TO TESTIFY IN YOUR DEFENSE;

AGAINST SELF-INCRIMINATION;

DEFENDANT ADVISED OF THE FOLLOWING:

THE POSSIBLE CONSEQUENCES OF A PLEA OF GUILTY OR NOLO CONTENDERE, INCLUDING THE
MAXIMUM PENALTY AND ADMINISTRATIVE SANCTIONS AND THE POSSIBLE LEGAL EFFECTS
AND MAXIMUM PENALTIES INCIDENT TO SUBSEQUENT CONVICTIONS FOR THE SAME OR
SIMILAR OFFENSES;

THE EFFECTS OF PROBATION;

IF YOU ARE NOT A CITIZEN, YOU ARE HEREBY ADVISED THAT A CONVICTION OF THE
OFFENSE FOR WHICH YOU HAVE BEEN CHARGED MAY HAVE THE CONSEQUENCES OF
DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF
NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES;

THE COURT FINDS THAT EACH SUCH WAIVER IS KNOWINGLY, UNDERSTANDINGLY, AND
EXPLICITLY MADE: COUNSEL JOINS IN THE WAIVERS

THE DEFENDANT WITH THE COURTS APPROVAL, PLEADS NOLO CONTENDERE TO COUNT 01 A

PAGE NO. 1

JURY TRIAL
HEARING DATE: 12/04/97

EXHIBIT

CASE NO. BA131909
DEF NO. 03

DATE PRINTED 12/04/97

VIOLATION OF SECTION 187(A) PC. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (01) : DISPOSITION: CONVICTED

COURT ORDERS AND FINDINGS:

-THE DEFENDANT IS REFERRED TO THE PROBATION DEPARTMENT.

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

COURT ACCEPTS PLEA

DEFENDANT PLEADS NOLO CONTENDERE TO COUNT 1, A VIOLATION OF
SECTION 187(A) PENAL CODE, IN THE FIRST DEGREE.

THE COURT ORDERS THE COURT REPORTER TO PREPARE AN ORIGINAL
TRANSCRIPT AND TWO COPIES OF THE PROCEEDINGS HELD THIS DATE.
ORIGINAL TRANSCRIPT TO THE LEGAL FILE AND COPIES TO RESPECTIVE
COUNSEL.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

02/24/98 900 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR -
CENTRAL DEPT 106

CUSTODY STATUS: DEFENDANT REMANDED

EXHIBIT

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 09/15/98

B187886

CASE NO. BA131909

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 03: JORNAY RECHURND RODRIGUEZ

COUNT 01: 187(A) PC FEL - MURDER.

COUNT 02: 209(A) PC FEL - KIDNAPPING FOR RANSOM.

ON 09/15/98 AT 900 AM IN L.A. SUPERIOR - CENTRAL DEPT 106

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: ANDREW KAUFFMAN (JUDGE) MARIANNE CALVIN (CLERK)
CARMEN YOUNG (REP) ANNE INGALLS (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY A. DEBLANC JR. BAR PANEL ATTORNEY

IMPRISONED IN STATE PRISON FOR A TOTAL OF 025 YEARS TO LIFE

COURT ORDERS PROBATION DENIED.

025 YEARS TO LIFE IMPRISONMENT AS TO THE BASE COUNT (01)

IN ADDITION:

-THE DEFENDANT IS TO PAY A RESTITUTION FINE PURSUANT TO SECTION 1202.4(B) PENAL CODE IN THE AMOUNT OF \$ \$10,000. (\$5,000 IS SUSPENDED UNLESS AND UNTIL THE DEFENDANT VIOLATES PAROLE.)

-MAKE RESTITUTION TO THE FAMILY OF THE VICTIM, MICHAEL TAYLOR, FOR FUNERAL AND BURIAL COSTS PURSUANT TO SECTION 1203.04 PENAL CODE PROVIDED THEY FILE A WRITTEN CLAIM WITH SUPPORTING DOCUMENTATION BY JANUARY 13, 1999. THE DEFENDANT WAIVES HIS APPEARANCE FOR A RESTITUTION HEARING AND AGREES THAT HIS COUNSEL MAY REPRESENT HIS INTERESTS.

COUNSEL FOR THE PEOPLE IS TO GIVE NOTICE TO THE FAMILY OF THE VICTIM.

COURT ORDERS AND FINDINGS:

-THE COURT ADVISES THE DEFENDANT OF PAROLE RIGHTS.

AS TO COUNT 1, THE COURT IMPOSES THE TERM OF 25 YEARS TO LIFE.

PAGE NO. 1

PROBATION AND SENTENCE HEARING
HEARING DATE: 09/15/98

EXHIBIT

CASE NO. BA131909
DEF NO. 03

DATE PRINTED 09/15/98

THE DEFENDANT IS GIVEN TOTAL CREDIT OF 1,006 DAYS IN CUSTODY.
(875 DAYS ACTUAL CUSTODY AND 131 DAYS GOOD TIME/WORK TIME.)

NOTE: NO LEGAL FILE IS PRESENT IN COURT. THE LEGAL FILE IS
CURRENTLY IN THE APPEALS UNIT.

COUNT (01): DISPOSITION: CONVICTED

REMAINING COUNTS DISMISSED.

COUNT (02): DISMISSED DUE TO PLEA NEGOTIATION

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 2

PROBATION AND SENTENCE HEARING
HEARING DATE: 09/15/98

EXHIBIT

ABSTRACT OF JUDGMENT - PRISON COMMITMENT
INDETERMINATE SENTENCE

000245

FORM CR 292

☒ SUPERIOR
☐ MUNICIPAL
☐ JUSTICE

COURT OF CALIFORNIA, COUNTY OF **LOS ANGELES**

COURT (D.S.)
19000, 1

BRANCH OR JUDICIAL DISTRICT: **CENTRAL CRIMINAL**

PEOPLE OF THE STATE OF CALIFORNIA versus ☒ PRESENT **BA131909 - A**
DEFENDANT: **RODRIGUEZ, JORNAY RECHURND**
AKA: ☐ NOT PRESENT **- B**
COMMITMENT TO STATE PRISON **- C**
AMENDED **- D**
ABSTRACT OF JUDGMENT ☐ ABSTRACT **- E**

DATE OF HEARING (MO/DA/YR) **9-15-98** DEPT. NO. **106** JUDGE **ANDREW KAUFFMAN** CLERK **MARIANNE CALVIN**

REPORTER **CARMEN YOUNG** COUNSEL FOR PEOPLE **ANNE INGALLS** COUNSEL FOR DEFENDANT **A DEBLANCE, JR.** PROBATION SUPERVISOR **X1679255**

FILED
LOS ANGELES SUPERIOR COURT
OCT 09 1998
JOHN A. CLARKE, CLERK
C. Wiggins-King
BY C. WIGGINS-KING, DEPUTY

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONY:

☐ ADDITIONAL COUNTS ARE LISTED ON ATTACHMENT

(NUMBER OF PAGES)

COUNT	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION	CONVICTED BY	JURY	FINAL	FINAL	PLA	CONVICTED	CONVICTED	CONVICTED	CONVICTED
1	PC	187(A)	MURDER	96	12/04/97						X			

2. ENHANCEMENTS charged and found true TIED TO SPECIFIC COUNTS (mainly in the § 12022-series) including WEAPONS, BATTERY, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, MAIL THEFTS, ETC. For each count list enhancements horizontally. Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add up time for enhancements on each line and enter the total in right-hand column.

Count	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Total

3. ENHANCEMENTS charged and found true FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS (mainly § 867-series) and OTHER: List all enhancements based on prior convictions or prior prison terms charged and found true. If 2 or more under the same section, repeat it for each enhancement (e.g., if 2 non-violent prior prison terms under § 867.5(b), list § 867.5(b) 2 times). Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add time for these enhancements and enter total in right-hand column. Also enter here any other enhancement not provided for in space 2.

Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Total

4. Defendant was sentenced to State Prison for an indeterminate term

- A. ☐ For LIFE WITHOUT THE POSSIBILITY OF PAROLE on counts _____
- B. ☐ For LIFE WITH POSSIBILITY OF PAROLE on counts _____
- C. ☐ For 15 years to life, WITH POSSIBILITY OF PAROLE on counts _____
- D. ☒ For 25 years to life, WITH POSSIBILITY OF PAROLE on counts _____
- E. ☐ For other term prescribed by law on counts _____

PLUS enhancement time shown above.

- F. ☐ Indeterminate sentence shown on this abstract to be served ☐ consecutive to ☐ concurrent with any prior incarceration sentence(s)

5. Other Orders: (List all consecutive/concurrent sentence relationships, fines, etc. if not shown above)

PAY RESTITUTION FINE PER 1202.4(B) PC FOR \$10,000.00. (\$5,000 IS SUSPENDED UNLESS AND UNTIL THE DEFENDANT VIOLATES PAROLE.)
MAKE RESTITUTION TO THE FAMILY OF THE VICTIM, MICHAEL TAYLOR, FOR FUNERAL AND BURIAL COSTS PER 1203.04 PC. PROVIDED THEY FILE A WRITTEN CLAIM WITH SUPPORTING DOCUMENTATION BY JANUARY 13, 1999. COUNSEL FOR THE PEOPLE IS TO GIVE NOTICE TO THE FAMILY OF THE VICTIM.
 (Use an additional page if necessary.)

7. ☐ The Court reserves the defendant of all appeal rights in accordance with rule 470, California Rules of Court. (AFTER TRIAL ONLY)

8. EXECUTION OF SENTENCE IMPOSED:

- A. ☒ AT INITIAL SENTENCING HEARING B. ☐ AT RESSENTENCING PURSUANT TO DECISION ON APPEAL C. ☐ AFTER REVOCATION OF PROBATION D. ☐ AT RESSENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1006.6) E. ☐ OTHER _____

DATE OF SENTENCE PRONOUNCED (MO/DA/YR)	CREDIT FOR TIME SPENT IN CUSTODY	TOTAL DAYS	ACTUAL LOCAL TIME	LOCAL CONDUCT CREDITS	STATE INSTITUTIONS
9-15-98		1,006	875	131	

9. DEFENDANT IS REMAINED TO THE CUSTODY OF THE SHERIFF, TO BE DELIVERED:

- ☒ FORTHWITH INTO THE CUSTODY OF THE DIRECTOR OF CORRECTIONS AT THE RECEPTION-GUIDANCE CENTER LOCATED AT: ☐ CALIF. INSTITUTION FOR WOMEN-FRONTIERA ☐ CONF-CHUMWILLA ☒ CALIF. INSTITUTIONS FOR MEN-CHINO ☐ DELER VOC INEL
- ☐ AFTER 48 HOURS, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS ☐ WMSO ☐ SAN QUENTIN ☐ R.I. DORRAN
- ☐ OTHER (SPECIFY) _____

CLERK OF THE COURT

DEPUTY'S SIGNATURE

C. WIGGINS-KING

DATE

OCTOBER 9, 1998

This form is prescribed under Penal Code § 1212.3 to comply with the requirements of § 1202.4 for indeterminate sentences. Attachments may be used but must be referred to in this document.

Form Approved by the Judicial Council of California Effective January 1, 1993

ABSTRACT OF JUDGMENT - PRISON COMMITMENT - INDETERMINATE

CR 292

DISTRIBUTION

PINK COPY-COURT FILE

YELLOW COPY-DEPARTMENT OF CORRECTIONS

WHITE COPY-ADMINISTRATIVE OFFICE OF THE COURTS

EXHIBIT